

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Andrew Drayton, Jr.,)
)
Petitioner,)
)
v.)
)
State,)
)
Respondent.)
_____)

2014 JUL -3 P 4: 53
No. 0:14-cv-1573-RMG

ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that this petition for writ of habeas corpus be dismissed without prejudice and without issuance and service of process. (Dkt. No. 19). As set forth below, the Court agrees with and adopts the R&R as the order of the Court.

Background

Petitioner, a pro se litigant proceeding *in forma pauperis*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(c), this matter was automatically referred to a United States Magistrate Judge for pretrial handling. Under established local procedure in this judicial district, the Magistrate Judge conducted a careful review of this pro se petition pursuant to the Rules Governing Section 2254 proceedings for the United States District Court, the Anti-Terrorism and Effective Death Penalty Act of 1996 (“AEDPA”), Pub. L. No. 104-132, 110 Stat. 1214, and other habeas corpus statutes. The review has been conducted in light of the following precedents: *Denton v. Hernandez*, 504 U.S. 25 (1992); *Neitzke v. Williams*, 490 U.S. 319, 324-25 (1989); *Haines v. Kerner*, 404 U.S. 519 (1972); *Nasim v. Warden, Md. House of Corr.*, 64 F.3d 951 (4th Cir.

1995); and *Todd v. Baskerville*, 712 F.2d 70 (4th Cir. 1983). The Magistrate Judge then issued the present R&R. (Dkt. No. 19). Petitioner then filed objections to the R&R. (Dkt. No. 22).

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

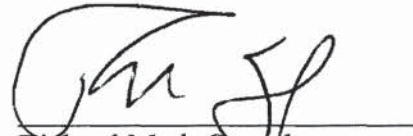
Discussion

After review of the record, the R&R, and Petitioner’s objections, the Court agrees with and adopts the R&R as the order of the Court. The Court agrees with the Magistrate Judge that this petition is subject to summary dismissal because Petitioner’s allegations are vague and conclusory in violation of Rule 2(c) of the Rules Governing Habeas Corpus Cases Under Section 2254. Petitioner’s objections do not address this issue or provide any grounds for his petition. Rather, Petitioner has filed with the Court a copy of a “sentencing sheet” from a state criminal case and a letter dated June 24, 2014, from a Regulatory Officer of the City of North Charleston denying Petitioner’s application for a taxi driver permit. (Dkt. Nos. 22, 22-1). The Court finds this objection is not responsive to the R&R and provides no basis for departing from the Magistrate Judge’s recommendation.

Conclusion

For the reasons set forth above, the Court agrees with and adopts the R&R as the order of the Court. (Dkt. No. 19). Accordingly, this petition is dismissed without prejudice and without issuance and service of process.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'RM Gergel', written over a horizontal line.

Richard Mark Gergel
United States District Court Judge

July 3, 2014
Charleston, South Carolina